

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF	)	
LOUISVILLE GAS AND ELECTRIC COMPANY AND	)	
KENTUCKY UTILITIES COMPANY FOR REVIEW,	)	CASE NO.
MODIFICATION, AND CONTINUATION OF	)	2017-00441
CERTAIN EXISTING DEMAND-SIDE	)	
MANAGEMENT AND ENERGY EFFICIENCY	)	
PROGRAMS	)	

ORDER

On April 19, 2018, Wal-Mart Stores East, LP and Sam's East, Inc. (Walmart), filed a petition pursuant to KRS 61.878(1)(c) and 807 KAR 5:001, Section 13, requesting that certain materials filed with the Commission be afforded confidential treatment and not be placed in the public record subject to public inspection. In support of its petition, Walmart states that the information it is requesting to be held confidential is contained in its responses to Commission Staff's Initial Request for Information (Staff's Initial Request), dated April 6, 2018, Items 1(b) and 2(b), filed as Exhibit A. Exhibit A purportedly contains information regarding Walmart's average load factor and monthly load factor for its facilities in Kentucky Utilities Company and Louisville Gas and Electric's (KU/LG&E) service territory. Walmart contends that the information sought in Items 1(b) and 2(b) requires Walmart to produce individual account usage information for each of its accounts in KU/LG&E's service territory.<sup>1</sup> Walmart filed Exhibit A under seal and contemporaneously with its Petition.

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<sup>1</sup> Petition of Wal-Mart Stores East, LP and Sam's East, Inc. for Confidential Protection, at 2 (filed April 19, 2018).

As the basis for its request, Walmart states that public disclosure of this information would damage Walmart's competitive position and business interests. Walmart further avers that disclosure of this sensitive commercial information could be used by Walmart's commercial competitors to discern Walmart's strategies and operational metrics with respect to electric consumption and demand-side management/energy efficiency participation values for both individual accounts and collectively.<sup>2</sup> Walmart further states that the information contained within Exhibit A to its responses to Staff's Initial Request is not generally known outside of Walmart.<sup>3</sup> Walmart requests that this information remain confidential indefinitely.<sup>4</sup>

Having carefully considered the petition and the materials at issue, the Commission finds that:

1. The materials for which Walmart seeks confidential treatment are records that are generally recognized as confidential or proprietary, and which, if openly disclosed, would permit an unfair commercial advantage to competitors, and therefore meet the criteria for confidential treatment and are exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13.

2. The materials for which Walmart seeks confidential treatment should not be placed in the public record or made available for public inspection until further Orders of this Commission.

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id at 3.*

IT IS THEREFORE ORDERED that:

1. Walmart's motion for confidential protection is granted under the exemption of KRS 61.878(1)(c)(1).

2. The materials for which Walmart seeks confidential treatment shall not be placed in the public record or made available for public inspection until further Orders of this Commission.

3. Use of the materials in question in any proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).

4. Walmart shall inform the Commission if the materials in question become publicly available or no longer qualify for confidential treatment.

5. If a non-party to this proceeding requests to inspect materials granted confidential treatment by this Order, Walmart shall have 30 days from receipt of written notice of the request to demonstrate that the materials still fall within the exclusions from disclosure requirements established in KRS 61.878.

6. If Walmart is unable to make such demonstration, the requested materials shall be made available for inspection.

7. The Commission shall not make the requested materials available for inspection for 30 days following an Order finding that the materials no longer qualify for confidential treatment in order to allow Walmart to seek a remedy afforded by law.

By the Commission

ENTERED  
JAN 25 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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